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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,290	12/29/2000	Aaron Strand	8160.16016-CIP2 US	8901
26308	7590	10/23/2003	EXAMINER	
RYAN KROMHOLZ & MANION, S.C. POST OFFICE BOX 26618 MILWAUKEE, WI 53226			MADSEN, ROBERT A	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,290

Applicant(s)

STRAND ET AL.

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 117-137 and 145 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 117-137 and 145 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

1. Applicant's election without traverse of Claims 117-137 and 145 in the response filed July 28, 2003 is acknowledged. Claims 1-116, 138-144, and 146-186 have been cancelled.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "19" has been used to designate both a "fin structure" and "outer surface". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 117-120, 123-127, 131, 132, 145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus (US 3380481) in view of Branson (US 4927271).

5. Regarding claims 117-120, 123-127, 131, 132, Kraus teaches a bag with a reclosable fastener with an integrally coupled skirt structure (i.e. the bag walls), as recited in claims 118 and 119, which has an outside surface (i.e. outside of the bag

including a distal margin (e.g. items 20 and 21) as recited in claim 120 a gusset bottom opposite the fastener and a bag opening below the fastener as recited in claims 117 and 145 (See Figures 1 and 20, column 1, lines 18-57, Column 2, lines 40-63, Column 3, lines 1-35, Column 6, lines 20-47). However Kraus is silent in teaching single sheet of web material, as recited in claim 123, including a fold structure between two lines of perforations running a predetermined dimension, as recited in claims 124-127, 131, 132, and the opening located between the fold structure and gusset and the reclosable structure extending past the lines of perforations and into the fold structure, as recited in claims 117 and 145.

6. Branson also teaches a bag with a reclosable fastener structure. However, Branson teaches it was notoriously well known in the art to provide these types of bags with tamper-evident seals. Branson teaches a tamper evident seal that comprises a web of material (or hood) of predetermined size as recited in claim 123 (Column 5, lines 1-7) having two lines of perforations (e.g. items 38 and 40) across the length and are positioned at a particular width to provide a means for pulling and separating the fold as recited in claims 124-127, 131, 132. The web material is positioned so that the opening of the bag is located between the fold structure of the web material (or hood), the distal margin is located between the closure and fold, and the fastener extends past the perforations and into the fold structure. (Figures 1 and 2, Column 1, lines 5-25, Column 1, line 45 to Column 2, line 5, Column 2, line 45 to column 3, line 3, Column 3, lines 9-53). Therefore it would have been obvious to modify Krause and include a single sheet of web material, as recited in claim 123, including a fold structure between

two lines of perforations, as recited in claims 124-127, 131, and 132, and the opening located between the fold structure and gusset and the reclosable structure extending past the lines of perforations and into the fold structure, as recited in claims 117 and 145, since Branson teaches (1) it was notoriously well known and desirable to provide a tamper-evident seal on a bag with a reclosable fastener and (2) Branson teaches the recited web material features of claims 117, 145, 123-127, 131, and 132 are an improvement over conventional tamper-evident seals.

7. Claims 128-130, 133, 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus (US 3380481) in view of Branson (US 4927271), as applied to claims 117-120, 123-127, 131, 132, 145 above, further in view of Hayashi et al. (US 6074097).

8. Modified Kraus teaches a linear area of weakness comprising perforations, but is silent in a non-linear area of weakness as recited in 128-130, scoring as recited in claim 133, or micro perforations as recited in claim 134,

9. Hayashi et al also teach reclosable bags with an area of weakness (Column 20, lines 10-26). Hayashi is relied on as evidence of the conventionality of providing a non-linear area (i.e. not a straight line), as recited in claim 128 for opening a bag (Column 18, lines 31-40, Figure 10). Hayashi et al. teach the preferred non-linear length and width (e.g. 106 in Figure 10), as recited in claims 129 and 130, along with micro-perforations as recited in claim 134, both tear strength and tear control (i.e. the tear follows the same shape as the area of weakness) of the area of weakness is more easily controlled (Column 13, lines 35-Column 14, line 12). Furthermore, Hayashi et al.

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teaches, alternatively, perforations or scoring (i.e. grooves), as recited in claim 133 may alternatively be used (Column 18, lines 31-40, Figure 10).

10. Therefore, it would have been obvious to further modify Kraus. and include a non linear perforation of at a predetermined length and width as recited in claims 128-130, as well as microperforations as recited in claim 134, since Hayashi et al. teach this provides greater tear strength and control and one would have been substituting one area of weakness for another for the same purpose. It would have been further obvious to modify Kraus and include scoring since Hayashi et al. teach scoring is an alternative to perforations, and one would have been substituting one conventional area of weakness for another for the same purpose.

11. Claims 121, 122, 135, and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus (US 3380481) in view of Branson (US 4927271), as applied to claims 117-120, 123-127, 131, 132, 145 above, further in view of May (US 5725312).

12. Kraus teaches the bags are intended to be air and water tight (column 1, lines 18-23, but are silent in teaching a backing strip opposite the opening and between the inside surface and the opening that extends below the lower portion of the inside surface, as recited in claims 121 and 122 or a multiple laminate with at least one layer of material comprising a tear path as recited in claims 135 and 136. May teaches a various means for attaching the fasteners to the bags (See Figures), which include a backing strip as recited in claims 121 and 122 (e.g. in figures 15 and 16 Figures 15 and 16, Column 18, lines 60-67 in light of Column 20, line 25 to Column 21 line 8) and a

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tear path (i.e. via a peelable seal) and a multiple laminate film in order to hermetically seal the bag as recited in claims 135 and 136 (Figures 19-21, Column 22, lines 15-59, Column 23, lines 30-47). Therefore to include a backing strip opposite the opening and between the inside surface and the opening that extends below the lower portion of the inside surface, as recited in claims 121 and 122, or even a multiple laminate with at least one layer of material comprising a tear path, as recited in claims 135 and 136, would have been an obvious result effective variable of the desired seal of the bag, since May teaches this helps to hermetically seal the bag and the purpose of Kraus is to provide a bag that is air and water tight. One would have been substituting one conventional reclosable bag fastener design for another for the same purpose.

13. Claims 117-120, 123-127, 131, 132, 137, 145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 6257763 B1) in view of Kraus (US 3380481).

14. Stolmeier et al. teach a reclosable bag comprising a sheet of plastic web material of a predetermined size (e.g. item 60 of Figure 7), as recited in claim 123, having two lines of perforations (e.g. items 72) at a particular length (e.g. across the entire bag) and at a particular width (e.g. above the seal point between the web and a fastener 70) as recited in claims 124-127, 131, 132, the web material forms a folding structure such that a the fold is between the perforations, a reclosable fastener comprising male and female tracks having fin formations, as recited in claim 137, that includes an integrally coupled skirt structure (e.g. the portions extending beneath items 72 in Figure 7), as

recited in claims 118 and 119, that has an outside surface and inside surface (relative to the web material) with upper and lower portions as recited in claim 120, and that is coupled to the web material between the area of opening in the bag and the perforations, as recited in claim 117, and the fastener extends beyond the perforations into the fold structure as recited in claims 117, 137, and 145 (See Column 3, line 59 to Column 4, line 9, Figures 7 and 7A, in light of the general discussion of Column 2, line 47 to Column 3, line 27, Figures 1, 2, 2a). In one embodiment (e.g. Figure 8) Stolmeier et al. teaches a gusset, or folded portion, opposite the opening, as recited in claims 117, 137, and 145, and Stolmeier et al. further teach the bags may comprise a folded bottom (Column 2, lines 57-62), Stolmeier et al. are silent in explicitly teaching a gusset opposite the fold with the opening located between the fold and gusset.

15. Kraus is relied on as evidence of the conventionality of reclosable bags optionally including a folded end, similar to Stolmeier's end, that comprises a gusset and is opposite the opening (See Figures 1 and 20, column 1, lines 18-57, Column 2, lines 40-63, Column 6, lines 20-47).

16. Therefore, it would have been obvious to include a gusset opposite the fold with the opening located between the fold and gusset, as recited in claims 117, 137, and 145 since (1) Stolmeier suggests that the bottom of the bags may be folded, (2) Kraus teaches the base of a reclosable bag may include a fold, or gusset, and one would have been substituting one conventional bag bottom for another for a reclosable bag.

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17. Claims 128-130, 133,134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 6257763 B1) in view of Kraus (US 3380481), as applied to claims 117-120,123-127,131,132,137, 145 above, further in view of Hayashi et al. (US 6074097).

18. Stolmeier et al. teaches a linear area of weakness comprising perforations, but are silent in a non-linear area of weakness as recited in 128-130, scoring as recited in claim 133, or micro perforations as recited in claim 134,

19. Hayashi et al also teach reclosable bags with an area of weakness (Column 20, lines 10-26). Hayashi is relied on as evidence of the conventionality of providing a non-linear area (i.e. not a straight line), as recited in claim 128 for opening a bag (Column 18, lines 31-40, Figure 10). Hayashi et al. teach the preferred non-linear length and width (e.g. 106 in Figure 10), as recited in claims 129 and 130, along with micro-perforations as recited in claim 134, both tear strength and tear control (i.e. the tear follows the same shape as the area of weakness) of the area of weakness is more easily controlled (Column 13, lines 35-Column 14, line 12). Furthermore, Hayashi et al. teaches, alternatively, perforations or scoring (i.e. grooves), as recited in claim 133 may alternatively be used (Column 18, lines 31-40, Figure 10).

20. Therefore, it would have been obvious to modify Stolmeier et al. and include a non linear perforation of at a predetermined length and width as recited in claims 128-130, as well as microperforations as recited in claim 134,since Hayashi et al. teach this provides greater tear strength and control and one would have been substituting one area of weakness for another for the same purpose. It would have been further obvious

to modify Stolmeier et al. and include scoring since Hayashi et al. teach scoring is an alternative to perforations, and one would have been substituting one conventional area of weakness for another for the same purpose.

21. Claims 121 and 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 6257763 B1) in view of Kraus (US 3380481), as applied to claims 117-120, 123-127, 131, 132, 137, 145 above, further in view of May (US 5725312).

22. Stolmeier et al. are silent in teaching a backing strip opposite the opening and between the inside surface and the opening that extends below the lower portion of the inside surface, as recited in claims 121 and 122. May teaches a various means for attaching the fasteners to the bags (See Figures), which include a backing strip (e.g. in figures 15 and 16) for the purpose of providing a secondary seal to hermetically seal the package (Figures 15 and 16, Column 18, lines 60-67 in light of Column 20, line 25 to Column 21 line 8). Therefore to include a backing strip opposite the opening and between the inside surface and the opening that extends below the lower portion of the inside surface, as recited in claims 121 and 122, would have been an obvious result effective variable of the desired seal of the bag, since May teaches this helps to hermetically seal the bag. One would have been substituting one conventional reclosable bag fastener design for another for the same purpose.

23. Claims 135 and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 6257763 B1) in view of Kraus (US 3380481), as applied to claims 117-120, 123-127, 131, 132, 137, 145 above, further in view of May (US 5725312).

24. Stolmeier et al. teach a plastic film for the web material, but are silent in teaching a multiple laminate with at least one layer of material comprising a tear path as recited in claims 135 and 136. May also teaches reclosable bags with the fastener between a fold and opening of the bag. May teaches a various means for attaching the fasteners to the bags (See Figures), which include a tear path (i.e. via a peelable seal) and a multiple laminate film in order to hermetically seal the bag (Figures 19-21, Column 22, lines 15-59, Column 23, lines 30-47). Therefore to include a multiple laminate with at least one layer of material comprising a tear path, as recited in claims 135 and 136, would have been an obvious result effective variable of the desired seal of the bag, since May teaches this helps to hermetically seal the bag. One would have been substituting one conventional reclosable bag fastener design for another for the same purpose.

Conclusion

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

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Robert Madsen
Examiner
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